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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,734	02/20/2004	Kuo-Chung Chen	3126-519	3605

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EXAMINER
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DABNEY, PHYLESHA LARVINIA

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/781,734

Applicant(s)

CHEN, KUO-CHUNG

Examiner

Phylesha L. Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This action is in response to the amendment filed on 16 June 2006 in which claims 1-9 are pending.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Keliiliki (U.S. Patent No. 6,427,018).

Regarding claims 1-3, Keliiliki teaches an adjustable ear-hook earphone with a microphone comprising a C-shaped hook (at 10) with a sleeve (13) on top end thereof; a wire entry (55, 57), a wire exit (24, 55), and a wire channel (as shown in the figures through item 10) arranged on upper part of the C-shaped hook in tangential direction; a main body (11) of earphone with a speaker mounted on lateral side and a limiting part (17) extending from top side thereof, an adjusting post (15) clipped on lateral side of the limiting part; wherein the outer diameter of the adjusting post corresponds to the inner diameter of the sleeve so that the adjusting post is sleeved into the sleeve to allow the main body of earphone to turn left or right in a certain angle (which reads on its ability to be used on either ear) as well as moving upwards or downwards (arrow 16); a flexible tube (35) with one end pivoted to the lateral side of the main body of earphone and extending downwards; the flexible tube swings to and fro; a microphone

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(45) disposed on one end of the flexible tube and connected with the main body of earphone by the flexible tube, and a signal wire (22, 46) passing through the entry, the wire channel, the wire exit, and then being connected to the main body of earphone, wherein the signal wire is routed directly from the wire entry to enter the main body of the earphone (as shown in figure 1).

Regarding claim 4, Keliiliki teaches the adjustable ear-hook earphone with a microphone as claimed in claim 1, wherein the limiting part (17) of the main body of earphone further having a wire (as shown in the figures) accommodating slot for housing the signal wire therein.

Regarding claims 5-8, see the rejection of claims 1-4 respectfully, and the arguments below.

Regarding claim 9, Keliiliki teaches the adjustable ear-hook earphone with a microphone as claimed in claim 5, wherein the adjustable ear-hook earphone with a microphone further having a flexible tube (35) with one end pivoted to the lateral side of the main body of the earphone (as shown in figure 7) and extending downwards; the flexible tube swings to and fro, a microphone disposed on one end of the flexible tube and connected with the main body of the earphone by the flexible tube.

### ***Response to Arguments***

Applicant's arguments filed have been fully considered but they are not persuasive.

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With respect to the Applicant's first argument that *Keliiliki does not teach the signal wire being inserted in to the speaker by an extended structure of the main body*, it is noted that the features upon which applicant relies (i.e., extended structure of the main body) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to the Applicant's second argument that *Keliiliki does not teach the passage between the wire entry and the wire exit is a straight line*, the Examiner agrees. However, the claims as written state that there is a substantially "straight wire" passage as opposed to a passage for a twisted, retractable, etc., wire. Therefore, Keliiliki satisfies the claimed language.

With respect to the Applicant's third argument that *Keliiliki wire channel will collect dirt*. The Applicant's argument fails to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In light of these arguments, the rejections are being maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

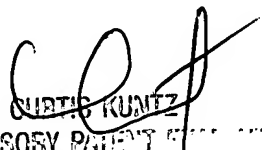
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 1, 2006

  
PLD

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY DIV.